SUPREME COURT, U. S.

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IN THE

Supreme Court of the United States

OCTOBER TERM 1967

No. 927

IN THE MATTER

of

LANDON ZUCKERMAN and SAM HABER,

Petitioners,

against

SAMUEL GREASON,

Respondent.

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR A WRIT OF CERTIORARI

SAM HABER, *pro se*,
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Petitioners pray that this court grant a rehearing of its order of January 29, 1968, denying the petition for a writ of certiorari, and that a writ of certiorari should issue to review the judgment of the Court of Appeals of the State of New York.

Reasons for Granting Rehearing and Issuing the Writ

1. Petitioners were threatened with disbarment if they failed to furnish information which could have subjected them to criminal prosecution (Charges 5B and 5F represented fraud; charge 5H was a violation of 270B of the Penal Law).

Clearly these disclosures in exposing these petitioners to punishment for crime bring them within the protection of the Constitution (*Matter of Rauss,* 221 N. Y. 81, 86; CARDOZO, J.).

The Fifth Amendment privilege was not invoked because of the threats of disbarment under the then existing law of *Cohen* v. *Hurley,* 366 U. S. 117.

Spevack v. *Klein,* 385 U. S. 511, established these threats were improper and thus the information obtained thereby was coerced in violation of petitioners' constitutional rights. It is a deprivation of due process to use such evidence as a basis for such a severe punishment as a five-year suspension.

The record discloses that innumerable files were inquired into by the Inquiry (Transcript, p. 446). Petitioners were interrogated by the Inquiry at some eleven (11) sessions (Transcript, pp. 450-451). There were additional interrogations by telephone. The petitioners were also interrogated in sessions before Mr. Justice Gulotta (Transcript, pp. 450-451). The Inquiry subpoenaed, demanded and received files, records, papers, including personal financial records (Transcript, pp. 452-457, 468-469, 578-580).

2. The taking by subpoena of the files and records and the evidentiary use thereof constituted a violation of the Fourth Amendment prohibiting illegal search and seizure by public officials and extends to any official proceeding. The evidentiary use by the authority of the product of an illegal search and seizure would be constitutionally prohibitive (*Mapp* v. *Ohio,* 268 N.Y.S. 2d 442).

3. Following the mandate of this Court which required "further proceedings" (17 Sup. Ct. 847), *no hearings were ever held* to ascertain whether petitioners, absent the compulsion stemming from *Cohen* decision, would have asserted their privilege against self-incrimination (See, Mr. Chief

Justice Fuld dissent in petitioners' Court of Appeals decision).

4. The Appellate Division in the instant case relied upon the authority of *Gardener* v. *Broderick*, 20 N. Y. 2d 227, which this Court has granted probable jurisdiction to, and set down for hearing the week of April 22, 1968. It is respectfully requested that certiorari be granted to permit your petitioners to be heard concerning applicable constitutional law that is common to both cases.

CONCLUSION

For the foregoing reasons, it is respectfully requested that a rehearing be granted and that a writ of certiorari issue to the Court of Appeals of the State of New York.

Respectfully submitted,

SAM HABER, *pro se.*

LANDON ZUCKERMAN, *pro se.*

Certificate of Counsel.

We, the undersigned, appearing herein, *pro se,* hereby certify that the foregoing petition for a rehearing is presented in good faith and not for delay and is restricted to grounds specified in Rule 58 of the rules of this Court.

SAM HABER, *pro se.*

LANDON ZUCKERMAN, *pro se.*